

PATENT APPLICATION

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re the application of:

MAURER et al.

Atty Dck. No. 100564-08019

Serial Number: 09/147,036

Group Art Unit: 1645

Filed: December 15, 1998

Examiner: Minnifield, N.

For: EXPORT SYSTEMS FOR RECOMBINANT PROTEINS

### RESPONSE TO EXAMINER'S COMMUNICATION

Commissioner for Patents  
U.S. Patent and Trademark Office  
Washington, D.C. 20231

Date: August 9, 2001

Sir:

Applicants are filing this Response to Examiner's Communication in response to the Office Action of July 9, 2001, for the above application, making the response due on or before August 9, 2001.

The Communication has been reviewed and the comments set forth below are complete response thereto.

Claims 1-19 and 41-59 are all the pending claims for this application.

Applicants gratefully acknowledge the following in regard to the Examiner's Communication:

1) the issuance of a second communication resetting the reply period for response to the original communication dated May 22, 2001;

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2) consideration and entry of Applicant's arguments for the traversal of the restriction requirement of Groups I and II filed on May 15, 2000, and the rejoinder of the claims; and

3) entry of Applicants' election of species A (claims 3 and 59) for prosecution.

In the communication, the Examiner states that an election of species is still required for a single passenger protein in accordance with the original election of species requirement of March 20, 2000.

Applicants' counsel contacted the Examiner on July 31, 2001 to discuss this matter in greater detail, more specifically in view of Applicants having repeated their election of a passenger protein species in the Response filed on May 15, 2000 and October 19, 2001.

The Examiner asserted that the original election of species requirement was intended to cover only a single species, whereas Applicants' previous election for the present passenger protein in instant claim 43 covers all of the species within the Markush group of the claims.

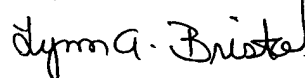
Accordingly, Applicants elect for prosecution, a passenger protein of claim 43 directed to a "peptide or polypeptide having an affinity for a binding partner".

Applicants remind the Examiner that if any generic claim is found allowable, a "reasonable" number of otherwise divisible species will be rejoined pursuant to 37 C.F.R. §1.141(a).

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In case this paper is not timely filed, the undersigned hereby petitions for an appropriate extension of time. In the event that any fees are due in connection with this paper, please charge our Deposit Account No. 01-2300.

Respectfully submitted,



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